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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,989	06/26/2003	Minoru Yonczawa	P 0304491	3885
909 7590 08/20/2007 PILLSBURY WINTHROP SHAW PITTMAN, LLP Eric S. Cherry - Docketing Supervisor P.O. BOX 10500 MCLEAN, VA 22102			EXAMINER DANIELSEN, NATHAN ANDREW	
			ART UNIT 2627	PAPER NUMBER
			MAIL DATE 08/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/603,989

Applicant(s)

YONEZAWA, MINORU

Examiner

Nathan Danielsen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20,21,23 and 24 is/are allowed.
- 6) ☒ Claim(s) 22 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 20-25 are pending. Claims 1, 3-5, 7-11, 13-15, and 17-19 were canceled in applicant's amendment filed 08 January 2007. Claims 2, 6, 12, and 16 were canceled and claims 20-25 were added in applicant's amendment filed 04 June 2007.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al (US Patent 5,420,838; hereinafter Maeda), in view of the applicant's admitted prior art (hereinafter the AAPA).

Regarding claims 22 and 25, Maeda discloses an optical disk apparatus (and associated method) comprising:

an optical head which applies or receives a laser beam to or from an optical disk including an information recording layer, to perform recording or reproducing processing (element 43 in figure 19);

a waiting position determination unit which detects a wave reflected from the optical disk using the optical head, discriminates an unrecorded region from a recorded region, and determines, as a waiting position, a position in the recorded region prior to a boundary between the unrecorded region and the recorded region, after the recording or the reproducing processing (element 46 in figure 19 and col. 34, line 65 through col. 35, line 17; where the waiting position could be two or more tracks away from the boundary based on exactly where in figures 20 and 21 the point D would be located); and

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a control unit which performs control for moving the optical head to the waiting position to set the optical head in a waiting state (element 46 in figure 19 and col. 34, line 65 through col. 35, line 17).

However, Maeda fails to explicitly disclose where the boundary is determined based on a change of reflectivity and where the position is two or more tracks away from the boundary.

In the same field of endeavor, the AAPA discloses an apparatus which discriminates an unrecorded region from a recorded region based on a height of reflectivity or reflectivity distribution of the optical disk corresponding to the detected wave (page 2, lines 8-19) and further discloses where it is advantageous to resume a recording operation from a position two tracks prior to the boundary (page 2, lines 14-19).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the functionality of Maeda with that of the AAPA, for the purpose of properly generating information, such as an error correction code, prior to resuming the recording operation (page 2, lines 14-19).

Response to Arguments

4. Applicant's arguments with respect to claims 22 and 25 have been considered but are moot in view of the new ground(s) of rejection.

Citation of Relevant Prior Art

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - a. Umeda et al (US Patent 5,442,608) disclose the details of two stand-by states including which servo functions are to be maintained in each;
 - b. Sumino (JP Patent Application Publication 10-172147) discloses an apparatus which discriminates a boundary between recorded and unrecorded regions based on the reflectivity of each region; and

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- c. Kelly et al (US Patent Application Publication 2002/0114244) disclose jumping to a previously written track prior to resuming a recording operation.

Allowable Subject Matter

6. Claims 20, 21, 23 and 24 are allowable over the prior art of record.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, considered alone or in combination, fails to teach or fairly suggest an optical disk apparatus including a control unit which moves an optical head to a waiting position, shifts the waiting position by a preset amount away from a boundary between unrecorded and recorded regions and moves the optical head to the shifted waiting position, when there is no instruction to perform recording processing or reproduction processing even after a preset time elapses, and performs control for shifting the optical disk apparatus to a power-saving state in which various servo states other than focus servo are made to holding states or open states, and only the focus servo is kept to be performed, as recited in apparatus claim 20 and corresponding functional method claim 23. Claims 21 and 24 are allowable with their respective parent claims.

Closing Remarks/Comments

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Danielsen whose telephone number is (571) 272-4248. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:00 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nathan Danielsen
08/15/2007

/Thang V. Tran/
Primary Examiner
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